
HOUSE BILL No. 1707

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-32.

Synopsis: Special service areas. Permits owners of taxable real property to petition to cities, towns, and counties to establish special service areas for the purpose of imposing assessments against real property to provide funding for infrastructure, such as streets, sidewalks, sewers, capital improvement board projects, park and recreation facilities, and municipal utilities. Establishes procedures for hearings on the establishment of a special service area and for computation of assessments against real property. Establishes procedures for objecting to the establishment of the area or computation of assessments. Provides that money raised by the assessments may be used to pay debt service on bonds or lease rentals under leases.

Effective: Upon passage.

Liggett

January 17, 2001, read first time and referred to Committee on Local Government.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1707

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-7-32 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
- 3 PASSAGE]:
- 4 **Chapter 32. Special Service Areas**
- 5 **Sec. 1. This chapter applies to all units except townships.**
- 6 **Sec. 2. As used in this chapter, "infrastructure" includes:**
- 7 (1) **improvements (as defined in IC 36-9-1-2);**
- 8 (2) **public ways (as defined in IC 36-9-1-7);**
- 9 (3) **sewage works (as defined in IC 36-9-1-8);**
- 10 (4) **thoroughfares (as defined in IC 36-9-1-8.5);**
- 11 (5) **watercourses (as defined in IC 36-9-1-10);**
- 12 (6) **capital improvements (as defined in IC 36-10-1-4)**
- 13 (7) **municipally owned utilities (as defined in IC 8-1-2-1);**
- 14 (8) **municipal waterworks facilities under IC 8-1.5-4;**
- 15 (9) **storm water collection and disposal facilities under**
- 16 **IC 8-1.5-5;**
- 17 (10) **park and recreational facilities (as described in**



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1 IC 36-10-1-2);

2 (11) public libraries (as defined under IC 20-14-1-4);

3 (12) facilities and equipment for a law enforcement or
4 firefighting and fire prevention systems under IC 36-8-2; and

5 (13) school buildings as (defined under IC 21-5-11-1(a)(2));

6 that are in, serving, or benefitting a special service area created
7 under this chapter.

8 Sec. 3. (a) The legislative body of a unit may establish a special
9 service area for the purpose of providing infrastructure in order
10 to:

11 (1) benefit the public health, safety, morals, and welfare;

12 (2) increase the economic well-being of the unit and the state;
13 and

14 (3) protect and increase property and income values in the
15 unit and the state;

16 (b) Providing infrastructure is a public use and purpose for
17 which public money may be spent and private property may be
18 acquired.

19 Sec. 4. (a) All the taxable real property within a special service
20 area constitutes a special taxing district for the purpose of the
21 special assessments to be apportioned, levied, and collected as
22 provided in this chapter. All the taxable property within the special
23 service area is considered to be benefitted by the infrastructure to
24 be provided under this chapter to the extent of the special
25 assessments apportioned, levied, and collected under this chapter.

26 (b) The benefits of providing infrastructure that accrue to a
27 parcel of real property within a special service area must bear a
28 reasonable relationship to the benefits that accrue to the parcel as
29 a result of the establishment of the special service area. The
30 benefits may be apportioned among those parcels in any manner
31 reasonably representative of the benefits accruing to a parcel from
32 the infrastructure projects, including the following:

33 (1) Assessed value or market value of the parcel.

34 (2) Assessed value or market value of any improvement on the
35 parcel.

36 (3) Age of any improvement on the parcel.

37 (4) Size of the parcel.

38 (5) Any other similar factors, as determined under the
39 ordinance.

40 (c) In order to encourage the retention or development of
41 various land uses within the special service area, assessments may
42 be adjusted according to the zoning classification of the property.

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(d) The unit may retain or employ qualified personnel or other consultants to develop the formula for determining the percentage of the total benefit accruing to each parcel of real property within the proposed special service area and the method for apportioning the assessments to be levied on the real property in the proposed special service area.

Sec. 5. (a) A verified petition for the establishment of a special service area may be filed with the legislative body of the unit by fifty-one percent (51%) of the owners of taxable real property in the proposed special service area.

(b) A petition requesting the establishment of a special service area must include the following information:

(1) The boundaries of the proposed special service area.

(2) The name and address of each owner of real property within the proposed special service area.

(3) A detailed description of the infrastructure to be developed to serve the proposed special service area, the estimated cost of the infrastructure to be developed, and the estimated benefits to accrue to the real property owners within the special service area.

(4) The plan for the application of assessment revenue to the cost of the infrastructure to be developed to serve the proposed special service area.

(5) The proposed formula for determining the percentage of the total benefit accruing to each parcel of real property within the proposed special service area and the method for apportioning the assessments to be levied on the real property in the proposed special service area.

(6) The estimated number of years in which assessments will be levied.

Sec. 6. (a) After receipt of a petition under section 5 of this chapter, the legislative body shall:

(1) publish notice of a hearing on the proposed special service area, one time, in accordance with IC 5-3-1; and

(2) mail a copy of the notice to each owner of real property within the proposed special service area;

at least ten (10) days before the hearing.

(b) The notice described in subsection (a) must include:

(1) a description of the boundaries of the proposed special service area;

(2) a description, including cost estimates, of the proposed infrastructure to be developed to serve the special service

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area;

(3) a summary of the plan for the application of assessment revenue to the cost of the infrastructure to be developed to serve the proposed special service area;

(4) the proposed formula for determining the percentage of the total benefit accruing to each parcel of real property in the special service area;

(5) the date, time, and location of the hearing; and

(6) a statement that at the time fixed for the public hearing, the legislative body will receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the establishment of the proposed special service area, and will determine the public utility and benefit of the establishment of the special service area and the development of the infrastructure.

(c) All persons affected in any manner by the hearing, including all taxpayers and owners of taxable real property within the proposed special service area, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and proceedings of the legislative body by the notice given under this section.

(d) At the public hearing, which may be adjourned from time to time, the legislative body shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed on the questions of:

(1) the sufficiency of the notice;

(2) whether the proposed infrastructure project will be of public utility and benefit;

(3) whether the proposed assessment formula is appropriate; and

(4) whether the proposed special service area contains all, or more or less than all, of the property specially benefitted by the proposed infrastructure to be developed.

Sec. 7. (a) After conducting the public hearing, the legislative body shall, in accordance with IC 5-3-1, give notice of the right of property owners within the proposed special service area to sign a petition opposing the establishment of the special service area. A petition opposing the establishment of the proposed special service area may be filed with the county auditor not more than twenty (20) days after the notice is given. If a petition opposing the establishment of the proposed special service area is filed and is signed by at least fifty-one percent (51%) of the owners of taxable

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1 real property in the proposed special service area, the proposed
2 special service area may not be established for at least one (1) year.

3 (b) After consideration of the evidence and after the period for
4 filing a petition under subsection (a), the legislative body may
5 adopt an ordinance establishing the special service area if it
6 determines that:

7 (1) the infrastructure to be developed will provide special
8 benefits to the owners of real property in the special service
9 area and will be of public utility and benefit;

10 (2) the apportionment of the assessment of benefits is
11 appropriate and bears a rational relationship to the special
12 benefits to be provided; and

13 (3) a petition opposing the establishment of the proposed
14 special service area has not been filed within the time
15 required by subsection (a) by fifty-one percent (51%) of the
16 owners real property in the proposed special service area.

17 (c) An ordinance adopted under this section must include:

18 (1) the boundaries of the special service area;

19 (2) the formula for determining the percentage of the total
20 benefit accruing to each parcel of real property within the
21 proposed special service area and for apportioning the
22 assessments to be levied and collected; and

23 (3) the estimated number of years in which assessments will
24 be levied.

25 (d) A copy of an ordinance adopted under this section, certified
26 by the unit's clerk, shall be recorded in the office of the recorder of
27 each county in which all or a part of the special service area is
28 located.

29 Sec. 8. The legislative body must conduct a public hearing
30 before amending or repealing an ordinance establishing a special
31 service area. The legislative body shall give notice of the hearing in
32 accordance with IC 5-3-1. The notice must:

33 (1) set forth the substance of the proposed amendment;

34 (2) state the time and place where written remonstrances
35 against the proposed amendment may be filed;

36 (3) set forth the time and place of the hearing; and

37 (4) state that the legislative body will hear any person who has
38 filed a written remonstrance during the filing period set forth
39 under subdivision (2).

40 Sec. 9. (a) Using the formula established for determining the
41 percentage of the total benefit accruing to each parcel of real
42 property within the proposed special service area and for

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1 apportioning the assessments to be levied and collected as set forth
 2 in the ordinance establishing the special service area, the fiscal
 3 officer shall annually determine the proposed assessment for each
 4 parcel of real property in the special service area and prepare a
 5 schedule of the assessments.

6 (b) The fiscal officer shall:

7 (1) certify the schedule of benefits prepared under subsection
 8 (a) to the auditor of each county in which all or a part of the
 9 special service area is located;

10 (2) file a copy of the schedule of benefits prepared under
 11 subsection (a) in the office of the recorder of each county in
 12 which all or a part of the special service area is located; and

13 (3) maintain one (1) copy in the office of the fiscal officer of
 14 the unit, which shall be available for inspection during
 15 business hours.

16 (c) For assessments that are to be collected with property taxes
 17 due in May, the fiscal officer must complete the requirements
 18 under subsection (b) on or before February 1 of the same year. For
 19 assessments that are to be collected with property taxes due in
 20 November, the fiscal officer must complete the requirements under
 21 subsection (b) on or before August 1 of the same year.

22 (d) Within ten (10) days of certifying the schedule of benefits to
 23 the county auditor, the fiscal officer of the unit shall send notice, by
 24 certified mail, to each owner of real property to be assessed. The
 25 notice to each owner of real property must be addressed as the
 26 name and address appears on the tax duplicates and the records of
 27 the auditor of the county in which the real property is located. The
 28 notice must:

29 (1) set forth the amount of the proposed assessment; and

30 (2) state that a copy of the schedule containing the proposed
 31 assessment on each parcel of real property in the special
 32 service area is on file and can be seen in the office of the fiscal
 33 officer of the unit.

34 Sec. 10. (a) Within ten (10) days after the county auditor
 35 receives the certification of the schedule of assessments for the
 36 special service area, the auditor shall deliver a copy of the
 37 certificate to the county treasurer. Each year, the treasurer shall
 38 add the full annual assessment due in that year to the tax
 39 statements of the person owning the property affected by the
 40 assessment, designating it in a manner distinct from general taxes.

41 (b) Assessments for special benefits under this chapter are a lien
 42 upon each parcel of real property against which the special benefits



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are assessed. The lien attaches at the time the schedule of assessments is filed with the county recorder. The lien is superior to all other liens except tax liens, and the real property is subject to sale as is provided by statute for the sale of real property on which there are delinquent taxes. Upon the sale the proceeds shall be prorated equally among the assessment and any delinquent taxes. A sale for a delinquent tax or delinquent assessment does not extinguish the assessment.

(c) Assessments collected under this chapter shall be paid to the unit's fiscal officer at the same time and in the same manner as the county treasurer distributes property taxes under IC 6-1.1-27.

Sec. 11. (a) The fiscal officer shall establish a special service area fund and shall deposit in this fund all revenues received from assessments levied and collected under this chapter.

(b) All investments from money in the fund remain a part of the fund.

(c) Money in the fund shall be used by the unit for the financing, construction, operation, or maintenance of infrastructure to be developed under this chapter.

(d) If a unit does not possess the authority to operate a particular type of infrastructure for which an assessment has been levied and collected under this chapter, the unit shall:

(1) enter into an agreement with the governmental entity which possesses the authority to operate the infrastructure, establishing the terms and conditions under which the infrastructure will be developed and financed; and

(2) if the governmental entity will finance the development of the infrastructure in accordance with an agreement described in subdivision (1), transfer, at least semiannually, revenues from the assessments levied and collected under this chapter which are attributable to that infrastructure.

(e) A governmental entity that has entered into an agreement under subsection (d), may use assessment revenues for any capital project for which the governmental entity is authorized to issue bonds or to enter into leases under any statute. A governmental entity may pledge assessment revenues received under an agreement described in subsection (d) in accordance with IC 5-1-14.

Sec. 12. (a) The unit may issue bonds, enter into leases, or incur other obligations to:

(1) pay any costs associated with the infrastructure to be developed;

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(2) reimburse the unit for any money advanced to pay those costs;

(3) refund bonds issued or other obligations incurred under this chapter; and

(4) pay capitalized interest on any bonds issued or obligations incurred under this chapter.

(b) Bonds or other obligations issued under this section:

(1) are payable solely from money provided under this chapter or other money legally available for that purpose; and

(2) may, in the discretion of the unit, be sold at a negotiated sale at a price to be determined by the unit or in accordance with IC 5-1-11.

(c) Leases entered into under this section:

(1) may be for a term not to exceed fifty (50) years;

(2) may provide for payments from revenues under this chapter, any other revenues available to the unit, or any combination of these sources;

(3) may provide that payments by the unit to the lessor are required only to the extent and only for the time that the lessor is able to provide the leased facilities in accordance with the lease;

(4) must be based upon the value of the infrastructure leased; and

(5) may not create a debt of the unit for purposes of the Constitution of the State of Indiana.

(d) A lease may be entered into by the legislative body of the unit only after a public hearing at which all interested parties are provided the opportunity to be heard. After the public hearing, the legislative body may approve the execution of the lease on behalf of the unit only if the legislative body finds that the service to be provided throughout the life of the lease will serve the public purpose of the unit and is in the best interests of its residents.

(e) Upon execution of a lease under this section, the legislative body shall publish notice of the execution of the lease and the approval of the lease in accordance with IC 5-3-1.

(f) The legislative body of the unit may pledge money in the fund to pay bonds issued, and lease payments or other obligations incurred by or on behalf of the unit or a special service area in the unit to provide the infrastructure described in an ordinance adopted under section 7 of this chapter.

(g) A pledge under subsection (f) is enforceable under



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1 IC 5-1-14-4.

2 Sec. 13. (a) With respect to any bonds, leases, or obligations for
3 which a pledge has been made under section 12(f) of this chapter,
4 the general assembly covenants with the holders of the bonds or
5 obligations, or the lessor under any lease and its bondholders, that
6 this chapter will not be repealed or amended in a manner that will
7 adversely affect the imposition or collection of the assessments
8 imposed under this chapter if the payment of any of the bonds or
9 obligations is outstanding or any lease remains unpaid.

10 (b) With respect to any bonds, leases, loans, or obligations for
11 which a pledge has been made under section 12(f) of this chapter,
12 the legislative body of the unit may not amend or repeal an
13 ordinance adopted under this chapter in a manner that will
14 adversely affect the imposition or collection of the assessments
15 imposed under this chapter if the payment of any of the bonds or
16 obligations is outstanding or any lease remains unpaid.

17 Sec. 14. (a) Any owner of taxable real property in a special
18 service area may file an action contesting the validity of:

19 (1) an ordinance adopted under section 7 or 8 of this chapter;
20 or

21 (2) the assessment schedule established under section 9 of this
22 chapter.

23 (b) An action under subsection (a) must be filed:

24 (1) in the circuit or superior court of the county in which a
25 majority of the special service area is located; and

26 (2) within twenty (20) days after:

27 (A) adoption of the ordinance, if the action is to contest the
28 validity of the ordinance; or

29 (B) establishment of the assessment schedule, if the action
30 is to contest the validity of the assessment schedule.

31 (c) An action to contest the validity of bonds issued or leases
32 entered into under this section must be brought in a circuit or
33 superior court in the county in which the special service area is
34 located within thirty (30) days after the adoption of a bond
35 ordinance or notice of the execution and approval of the lease, as
36 the case may be.

37 Sec. 15. This chapter shall be construed liberally and is in
38 addition and supplemental to the powers conferred on a unit by
39 any other law. A unit may finance and develop infrastructure as
40 defined under this chapter in accordance with any other statute
41 that authorizes or permits the financing of such infrastructure.

42 SECTION 2. An emergency is declared for this act.

